Compensation to victims of custodial violence

2642. SHRMATI SHOBHANA BHARTIA: Will the Minister of HOME AFFAIRS be pleased to state:

(a) whether Government are considering enactment of law to provide compensation to victims of custodian violence amending the Code of Criminal Procedure making it mandatory for a Judicial Magistrate to investigate cases of deaths, rapes and disappearances in custody;

(b) whether widespread instances of custodial deaths/violence mostly happen in lock up and prison; and

(c) it so, whether Ministry is considering Law Commission's recommendations for insertion of section 114B in the Indian Evidence Act to introduce a rebuttable presumption that injuries sustained by a victim in police custody be presumed to be caused by a police officer?

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI SHRIPRAKASH JAISWAL): (a) Section 176 of The Criminal Procedure Code has been amended vide The Code of Criminal Procedure (Amendment) Act 2005 to provide that in the case of death or disappearance of a person or rape of a woman while in the custody of the police, there shall be a mandatory judicial inquiry and in case of death, examination of the dead body shall be conducted within twenty four hours of death. There is no proposal for a separate legislation to provide compensation to victims of custodial violence. However, the Government is considering amending Section 357 of the Criminal Procedure Code to enhance the scope of compensation to the victims of all crimes (including custodial crimes).

(b) 'Police' and "Public Order' are State Subjects. However, the National Human Rights Commission (NHRC) has issued guidelines to all State Governments and UT Administrations to report custodial deaths to it within 24 hours of its occurrence. As per the reports received from the State Governments and UT Administrations by the NHRC instances of custodial deaths have been reported in both police and judicial custody.

(c) Based on the views/comments to be received from the State Governments/Union Territories, the Government would consider the amendments by way of insertion of new section 114B, as proposed by the Law Commission in its 185th Report on "Review of Indian Evidence Act, 1872".